



Board of
Behavioral
Sciences

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MEETING NOTICE

Licensing and Examination Committee March 24, 2011

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd.
2nd Floor North, Room 220
Sacramento, CA 95834

1:30 p.m.

- I. Introductions
- II. Review and Approval of the September 13, 2010 Meeting Minutes
- III. Discussion and Possible Rulemaking Action Regarding Implementation of Assembly Bill 2699 (Bass) Chapter 270, Statutes of 2010
- IV. Discussion and Possible Action Regarding Expiration of Clinical Experience Hours Gained More Than Six years Prior to Licensure Application
- V. Discussion Regarding the Holistic Review of the Board's Examination Programs
- VI. Discussion and Possible Action Regarding the National Counselor Examination and the National Clinical Mental Health Counselor Examination
- VII. Suggestions for Future Agenda Items
- VIII. Public Comment for Items Not on the Agenda



Governor
Edmund G. Brown Jr.
State of California
State and Consumer
Services Agency
Department of
Consumer Affairs

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov.

NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

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Licensing and Examination Committee Minutes - **DRAFT**

September 13, 2010

Department of Consumer Affairs
Sacramento Room
1625 N. Market Blvd, #S306
Sacramento, CA 95834

via Teleconference:
1104 Ridgefield
Carson City, NV 89706

Members Present

Elise Froistad, Chair, MFT Member
Janice (Jan) Cone, LCSW Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
Rosanne Helms, Legislative Analyst
Christy Berger, MHA Manager
Marsha Gove, Examination Analyst

Members Absent

None

Guest List

On file

Elise Froistad, Licensing and Examination Committee (Committee) Chair, called the meeting to order at 10:05 a.m. Marsha Gove called roll, and a quorum was established.

I. Introductions

The Committee, Board of Behavioral Sciences (Board) staff, and meeting attendees introduced themselves.

II. Review and Approval of the June 14, 2010 Meeting Minutes

Kim Madsen noted a correction on 4th paragraph on page 5 to change the bold print to regular print. Another correction was noted on the 5th paragraph, 3rd sentence should read "...balancing public protection *while* note standing..."

Dean Porter noted a correction on page 2, item IV, 5th paragraph to end the sentence at "accredited" and delete "or considered acceptable for licensure as an LPCC."

Elise Froistad moved to approve the June 14, 2010 Compliance and Enforcement Committee meeting minutes as amended. Jan Cone seconded. The Committee voted unanimously (3-0) to pass the motion.

III. Overview of the Best Practices Guide in the Use of Videoconferencing with Supervision; Presentation by Kathy Cox, Ph.D., Patty Hunter, and Jeff Layne, California State University, Chico

Item III was heard out of order. This item was presented before Item VI.

IV. Discussion and Possible Action Regarding Expiration of Clinical Experience Hours Gained More Than Six Years Prior to Licensure Application

Rosanne Helms presented. At the April 2010 Policy and Advocacy Committee meeting an Associate Clinical Social Worker (ASW) requested the Board re-examine the requirement that hours of experience an ASW gains toward licensure must be gained within a six-year time frame. He cited his difficult experience in gaining those hours within that time frame, citing his age (71), and cutbacks related to the economic recession as primary reasons for his difficulty.

Specifically, the section of law he is referring to is Business and Professions Code (BPC) Section 4996.23 (a)(4), which states that “A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.”

A similar requirement is in place for those seeking MFT, LEP, and LPCC licenses.

Ms. Helms explained that the six-year timeframe requirement for ASW experience has been in effect since at least 1992. Prior to 1999, there was a provision allowing experience gained more than 6 years prior to applicant date be accepted if good cause was shown. The provision of crediting experience gained more than six years prior to an applicant date based on good cause was no longer effective as of January 1, 1999.

The intent of the six year timeframe is likely twofold. First, it assures that those applying for licensure are up-to-date with current issues and trends in their field. Second, it provides an incentive for licensure, rather than remaining employed as a registrant for an unlimited amount of time.

Ms. Helms stated that in July 2008, the staff conducted a study of its licensing processes based on data for all 2002, 2003, and 2004 graduates that registered with the Board. The study shows that, for those graduating classes, it typically takes approximately 3 to 4 years for an ASW or Marriage and Family Therapy Intern (IMF) to obtain a license once they have submitted their registration application. On average, it takes slightly longer for an ASW to obtain licensure than it does for an IMF. This data, however, does not take into account the possibility of more severe recent effects on time to licensure that may be due to the current economic downturn.

One possible reason for the difficulty some ASWs are experiencing may be due to stricter requirements on their experience hours. Of the required 3,200 hours of post-master’s degree supervised experience providing clinical social work, at least 1,700 of these hours must be gained under the supervision of a licensed clinical social worker (LCSW). This specific requirement of ASWs is not required of IMFs.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA) suggested additional, current data. The 2008 data presented does not show how many people are being affected. He suggested including data that shows how much

experience someone is receiving, on average, under an MFT versus an LCSW, a psychologist, etc.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), stated that the six-year time frame goes back to the 1970s for all the disciplines. She expressed that the six-year time frame is adequate and appreciates that the discussion is regarding who can provide the supervision.

Ms. Froistad expressed that it is beneficial for the ASWs to receive their supervision from an LCSW; however, it is limiting to the workforce and creates a hardship for the ASW.

Janlee Wong, National Association of Social Workers (NASW), stated that the majority of the ASWs hours need to be provided by an LCSW because the goal is to train professionals, not generic practitioners. Mr. Wong added that more research is needed. It is his understanding that jobs are difficult to find and if someone can find a supervisor if he or she is willing to pay.

Herbert Weiner stated that the job market is down. He does not have a job where he can accumulate hours, and he is losing hours he already accrued. He feels a survey should be conducted to determine how many ASWs are in the same boat. Mr. Weiner added that there are more MFTs than LCSWs in California. He also stated that he has a doctoral degree in clinical psychology.

Mr. Weiner was asked if he is having difficulty finding supervision or obtaining the required hours. Mr. Weiner responded yes to both.

Ms. Froistad directed staff to do more research on this matter, specifically in the areas of finding jobs and supervision and more current data on how long it is taking ASWs to obtain licensure.

V. Discussion and Possible Action Regarding Revising the Board's Examination Process for Marriage and Family Therapists and Clinical Social Workers

At its July 2010 Board meeting, the Board directed staff to draft proposed legislation to implement a re-structure of the examination process. The proposed re-structure would change the exam process for applicants seeking MFT and LCSW licensure on or after January 1, 2013. The major components of the re-structure are: 1) exam overview, 2) law and ethics exam, 2) clinical exam, 3) registrants in the exam process before 2013, and 4) exam fees.

- *Overview* - Effective January 1, 2013, applicants for MFT and LCSW licensure shall pass two exams: a California law and ethics examination and a clinical examination. These new exams replace the current standard written and the clinical vignette exams.
- *Law and Ethics Exam* - A new registrant would be required to take the law and ethics exam. This exam must be taken within the first year of registration with the Board. If the law and ethics exam is not passed within the first renewal period, the registrant must complete a 12-hour law and ethics course in order to be eligible to take the exam in the next renewal cycle. The exam must be re-taken in each renewal cycle until passed. In addition, in each year the exam is not passed, the 12-hour law and ethics course must be taken to establish examination eligibility. A registration cannot be renewed after six years. If a registration expires, the registrant must pass the law and ethics exam in order to obtain another registration number.

- *Clinical Exam* - Once a registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, the registrant may take the clinical exam. This exam must be passed within seven years of an individual's first attempt. If it is not passed within this timeframe, the individual's eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the clinical exam.
- *Exam Fees* – The examination fees will remain the same.

Mr. Caldwell suggested including parallel language giving the Board authority to use the MFT national exam if the Board sees fit to do so. He also suggested a shorter time limit to pass the clinical exam.

Ms. Riemersma thanked the Board for changing the initial proposal for an 18-hour law and ethics course to a 12-hour course. Ms. Riemersma suggested the following changes to the proposed language:

- Top of page 7 (a) and (b) to reflect Marriage and Family Therapist Intern.
- Top of page 11, (c) change “and passes the California law and ethics examination” to “has passed the California law and ethics examination.”

Ms. Riemersma urged the Board to not revisit the issue regarding the number of years that may pass before a registrant would have to retake the first exam. CAMFT would be opposed to that if it was considered.

Tracy Rhine tabled the conversation to hear Item III; this item (Item V.) resumed after Item III was presented.

Upon return to this item, Mr. Wong agreed with Ms. Riemersma. It would take a lot of staff time, and policy decisions should be made on statistics and evidence. Mr. Wong added that everyone learns at a different rate.

Christine Wietlisbach moved to recommend that the Board sponsor legislation to re-structure the exam process and authorize staff to make any non-substantive changes to the proposed language. Elise Froistad seconded. The Committee voted unanimously (3-0) to pass the motion.

III. Overview of the Best Practices Guide in the Use of Videoconferencing with Supervision; Presentation by Kathy Cox, Ph.D., Patty Hunter, and Jeff Layne, California State University, Chico

Christy Berger provided background. Ms. Berger stated that effective January 1, 2011, ASWs and IMFs can gain hours of supervision using videoconferencing. This will also be in effect for the Licensed Professional Clinical Counselor (LPCC) interns. Because of some of the challenges in providing supervision, there is a need to provide support to supervisors to use this method. The Board contracted with California State University, Chico to develop a guide to best practices in this area, addressing both the technology and the variety of factors involved in supervising people from distance and how to manage issues that arise. Ms. Berger encouraged Committee member and public feedback and suggestions regarding the guide.

Kathy Cox, Ph.D., Patty Hunter, and Jeff Layne introduced themselves and provided their background. They gave their presentation via videoconferencing technology so that the Committee and meeting attendees could experience the technology and provide feedback.

Ms. Hunter gave an overview of literature research, interviews with supervisors and supervisees, interviews with those who used videoconferencing in their supervision practice, and identified core elements regarding clinical supervision and effective ways of providing clinical supervision. They also reviewed the technologies available. They created a focus group of supervisors and introduced the focus group to the core elements. After receiving the focus group's feedback, CSU Chico staff gave a demonstration to them on the computer-based teleconferencing system.

Dr. Cox gave an overview of the benefits of using videoconferencing. It increases access to clinical supervision particularly for interns working in remote/rural areas. This process could afford the opportunity for supervisees to become more familiar with audio/visual technology, which could be used to enhance their practice as well as classroom education on campus. Depending on the type of technology used, it may require some things to be done in advance prior to a supervisory session. This type of preparation could enhance the quality and content of the supervisory process.

Dr. Cox gave an overview of the challenges of videoconferencing. Clinical supervision is a relationship-based education and training method. There is a challenge with the remote distance between the supervisor and supervisee. Another challenge is using forms of lower-end technology available, reduced bandwidth is an issue. Audio and visual quality is low, and eye contact is jeopardized. These factors can impact the verbal and non-verbal communication, which can interfere with the relationship building process in supervision.

She also provided best practice recommendations. Clinical supervisors use a videoconferencing system that allows for a maximum amount of physical and emotional nuance. These systems are very expensive and may be out of reach for agencies to use them. Another challenge is that some interns may not do well with this method of supervision. It is important to supplement videoconferencing sessions with in-person sessions especially at the beginning of the supervisory experience and establish a schedule for face-to-face meetings. Training in the use of technology and access to technical support is critical. Establishing protocols is important to ensure confidentiality, privacy and security.

Jeff Layne gave a brief overview of types of technology and security, such as using secure or closed networks, encryption programs, and updating virus scan programs.

Ms. Hunter made a suggestion for continuing education (CE) providers to provide CE courses to train supervisors on this technology.

Mr. Caldwell asked for clarification regarding Skype: Is it a peer-to-peer computing to transmit across the Internet or if it is a hosted videoconference server and 128 bit encryption between participants? There is a discrepancy in the guide provided. Mr. Layne corrected the discrepancy by stating that he would not use Skype as it is a peer-to-peer computing to transmit across the Internet.

Jan Cone requested clarification in regards to HIPAA and supervisees informing clients that discussion of their health-related information will be discussed with supervisors will take place using this technology.

Ms. Riemersma asked how the Board will use this information presented by CSU Chico. The guide is titled Best Practices. The Board deals with thresholds, not best practices. If the Board intends to distribute this, it will appear as underground regulation.

Ms. Berger responded that this is only to provide information, to give guidance to those who wish to use this emerging technology. The Board is not trying to set standards. The Board will post this on its website and announce that it's available.

Ms. Riemersma stated that people affiliated with other schools have inquired as to why they were not able to contribute to the best practices guide. Ms. Hunter responded that CSU Chico submitted a proposal in response to the Board's advertisement.

Mr. Wong in regards to education for supervisors and current Board requirements to becoming a supervisor, this guide can be placed in that education through regulation or policy. He warned the Board to be careful on how it prescribes this. He also mentioned a requirement for training in videoconferencing for supervisors that intend to use the technology.

The Use of Videoconferencing in Supervision: A Best Practices Guide was provided.

Ms. Cone noted that there were some citations in the text that were not listed in the references.

No further discussion or feedback was provided. The Committee returned to Item V.

VI. Discussion and Possible Action Regarding the National Counselor Examination and the National Clinical Mental Health Counselor Examination

At its July 2010 meeting, the Board accepted the recommendation made by Dr. Montez to not adopt a National Counselor Examination for the purpose of LPCC licensure in California. Dr. Montez has continued to work with the National Board for Certified Counselors (NBCC) to address the concerns presented to the Board on the two examinations offered by NBCC.

Dr. Montez reported that she met with Shawn O'Brien at NBCC and presented him with concerns that needed to be addressed to move the standards up to what is acceptable to California. Mr. O'Brien is working with his staff to address those concerns. He will be visiting the Board in September to provide information and review those important points. The key is to make public the concerns found in the assessment and recognize that transparency is needed in terms of the information that was reviewed during Dr. Montez's assessment.

Dr. Montez reported that NBCC does not make their job analysis public. They also do not release their detailed content outlines. She is working with NBCC to come to a compromise. Dr. Montez stated that the dialogue is ongoing.

VII. Future Meeting Dates

Ms. Madsen reported the 2011 Licensing and Examination Committee meeting dates:

- March 24th in Sacramento,
- June 16th in Sacramento,
- September 15th in Sacramento.

VIII. Suggestions for Future Agenda Items

Mr. Wong requested a change to California Code of Regulations Section 1833.1 to permit people who are currently supervising licensees to also supervise non-licensed persons. Ms. Rhine responded that this item is on the Policy and Advocacy Committee agenda.

IX. Public Comment for Items Not on the Agenda

Mr. Weiner requested that the Committee make its future meetings available by videoconferencing.

No further comments were made. Meeting adjourned.

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To: Board Members

Date: March 10, 2011

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Proposed Regulations for AB 2699

As a result of legislation passed in 2010, health care practitioners licensed or certified in good standing in another state may be temporarily exempted from California licensing requirements. Specifically, AB 2699 (Bass) Chapter 270, Statutes of 2010, allows a health care practitioner who is licensed or certified in good standing in another state to provide health care services for which he or she is licensed or certified temporarily in California, if the following conditions are met:

- a) Care is to uninsured or underinsured persons;
- b) Care is on a short-term, voluntary basis not to exceed ten calendar days per event;
- c) Care is in association with a sponsoring entity that registers with the applicable healing arts board and provides specified information to the county health department of the county in which the health care services will be provided; and
- d) It is without charge to the recipient or to a third party on behalf of the recipient.

The health care practitioner must submit a copy of his or her license, a request for authorization to practice without a license and pay a fee established by the regulating board through regulation.

This law sunsets on January 1, 2014.

Proposed Regulations

Before this law can be implemented, regulations must be approved which specify the methods of its implementation. The Department of Consumer Affairs (DCA) has drafted a model regulation package for each of its boards to use as a standardized framework.

The regulation package written by DCA does the following:

1. **Specifies Registration and Recordkeeping Requirements for the Sponsoring Entity:**
Creates a form upon which a sponsoring entity must apply for registration at a sponsored event. Describes recordkeeping and reporting requirements for the sponsoring entity.

2. **Defines the Application Process for an Out-of-State Practitioner to Participate in a Sponsored Event:** Specifies the procedure for an out-of-state practitioner to request authorization to participate in a sponsored event, and outlines the process for approval or denial of the request.
3. **Defines Grounds for Termination of Authorization to Participate:** Describes conditions under which the Board may terminate a practitioner's authorization to participate, and outlines an appeal process.

Additional Information Needed

The regulations package drafted by DCA leaves several decisions to each Board's discretion. The Board will need to modify the regulations to meet its needs in the following areas:

1. **Processing Fee (§3(a)):** The Board will need to set a processing fee to be paid by an applicant. Staff recommends a processing fee of \$25.
2. **Educational/Experience Requirements (§3(c)(1)(B)):** The law requires applicants to be licensed or certified in good standing in another state in order to participate in a sponsored event. Additionally, the statute allows Board discretion to set minimum education/experience requirements if deemed necessary to protect the public from inexperienced or unqualified practitioners. These additional qualifications may include one or more of the following:
 - a) Requiring a Master's degree from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education.
 - b) Specifying a certain degree title, similar to those required by current Board licensing law, such as Master of Marital and Family Therapy, Couple and Family Therapy, Masters in Counseling or Master of Social Work.
 - c) Requiring that the practitioner has been licensed in their state for a certain period of time (two years, for example).
 - d) Requiring a certain number of hours of supervised experience (for example, 3,000 hours).
3. **Additional Application Material (§3(a)):** The Board may require that additional information be submitted with an application. Examples of information the Board may decide to require include educational records, reference letters, list of work experience, etc.
4. **Discretionary Denial Authority (§3(c)(2)(D)):** The regulations grant the Board discretionary denial authority in the event that an applicant has participated in a large number of events within the 12-month period immediately preceding the current application. The Board may choose the number of events it feels it can allow while still maintaining both public protection and the integrity of the state's licensing laws, if it feels that a limit is necessary.

Next Steps

Staff will draft proposed regulations based on the DCA model and the recommendations of the Committee. Staff will then confer with counsel and then bring the revised regulation package to the May Board meeting for consideration.

Recommendation

Conduct an open discussion regarding the additional information needed to complete the regulation package drafted by DCA. Direct staff to incorporate this information into the regulation package for inclusion at the May board meeting.

Attachments

A. Proposed Regulations

- Registration of Sponsoring Entity Under Business & Professions Code Section 901 (form)
- Request for Authorization to Practice Without a License at a Registered Free Health Care Event (form)
- Initial Statement of Reasons

B. AB 2699 – Chaptered Version

C. Relevant Code Sections

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[Board Name]

Proposed Regulations

Article X.

Sponsored Free Health Care Events—Requirements for Exemption.

§1. Definitions.

For the purposes of section 901 of the code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of _____ but who holds a current valid license or certificate in good standing in another state, district, or territory of the United States to practice _____.

NOTE: Authority cited: Business and Professions Code §§ _____, 901.
Reference: Business and Professions Code § 901.

§2. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board a completed Form 901-A (xx/xxxx), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The board may, by resolution, delegate to the [Identify unit] in the Department of Consumer Affairs the authority to receive and process Form 901-A on behalf of the board. The board or its delegatee shall inform the sponsoring entity within 15 calendar days of receipt of Form 901-A in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board or its delegatee shall reject the registration if all of the identified

deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.

(d) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

- (1) The date(s) of the sponsored event;
- (2) The location(s) of the sponsored event;
- (3) The type(s) and general description of all health care services provided at the sponsored event; and
- (4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Business and Professions Code §§ _____, 901.
Reference: Business and Professions Code § 901.

§3. Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed Form 901-B (xx/xxxx), which is hereby incorporated by reference, accompanied by a non-refundable processing fee of \$_____. The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information.

[(B) The applicant has not met the following educational and experience requirements:

(i) ***

(ii) ***

(C) ***]

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board.

(E) The applicant does not possess a current valid license in good standing. The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license;

(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that

the board determines constitutes evidence of a pattern or negligence or incompetence.

(2) The board may deny a request for authorization to participate if:

(A) The request is received less than 20 calendars days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board.

(D) The applicant has participated in [insert a number here] or more sponsored events during the 12 month period immediately preceding the current application.

[(E) ***]

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 4.

NOTE: Authority cited: Business and Professions Code §§144, _____, 901.
Reference: Business and Professions Code § 901

§4. Termination of Authorization and Appeal.

(a) Grounds for Termination. The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.

(3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The board shall provide both the sponsoring entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Business and Professions Code §§ ____, 901.
Reference: Business and Professions Code § 901.

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REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code Section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 60 calendar days prior to the sponsored event.** *Note that the information required by Business and Professions Code Section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place..*

[Only one form (per event) should be completed and submitted to the board/Department of Consumer Affairs. The Department of Consumer Affairs will forward a copy of the completed registration form to each of the licensing authorities indicated on this form.]

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1

Phone Number of Principal Office

Address Line 2

Alternate Phone

City, State, Zip

Website

County

Organization Contact Information in California (*if different*):

Address Line 1

Phone Number

Address Line 2

Alternate Phone

City, State, Zip

County

3. Type of Organization:

Is the organization operating pursuant to Section 501(c)(3) of the Internal Revenue Code? Yes No

If not, is the organization a community-based organization*? Yes No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals and activities of the organization (*attach separate sheet(s) if necessary*): _____

* A "community based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who are the officers or officials of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 2:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 3:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

(Attach additional sheets if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

5. Attach a list of all out-of-state health care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

6. Please check each licensing authority that will have jurisdiction over an out-of-state licensed health practitioner who intends to participate in the event:

___ Acupuncture Board	___ Physician Assistant Committee
___ Board of Behavioral Sciences	___ Physical Therapy Board
___ Board of Chiropractic Examiners	___ Board of Podiatric Medicine
___ Dental Board	___ Board of Psychology

___ Dental Hygiene Committee
___ Medical Board
___ Naturopathic Medicine Committee
___ Board of Occupational Therapy
___ Board of Optometry
___ Osteopathic Medical Board
___ Board of Pharmacy

___ Board of Registered Nursing
___ Respiratory Care Board
___ Speech-Language Pathology,
Audiology & Hearing Aid Dispensers
Board
___ Veterinary Medical Board
___ Board of Vocational Nursing &
Psychiatric Technicians

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application (Form 901-B) to the applicable licensing Board/Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.
- I understand the recordkeeping requirements imposed by California Business and Professions Code Section 901 and Title 16, California Code of Regulations Section _____ to maintain records both at the sponsored event and for five (5) years in California
- I understand that our organization must file a report with each applicable board/committee within fifteen (15) calendar days of the completion of the event.

This form, and any attachments, shall be submitted to:

Department of Consumer Affairs
Attn: [Executive Office]
1625 North Market Blvd.
Sacramento, CA 95834

Questions regarding the completion of this form should be directed to:

Phone: *****

E-mail: *****

I certify under penalty of perjury that the information provided on this form and any attachments is true and current and that I am authorized to sign this form on behalf of the organization:

Name Printed

Title

Signature

Date

3. Applicant's Contact Information:

Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address

4. Applicant's Employer : _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E-mail address (if available)

PART 3 – LICENSURE INFORMATION

1. Do you hold a current license, certification, or registration issued by a state, district, or territory of the United States authorizing the unrestricted practice of [profession] in your jurisdiction(s)?

No If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes If yes, list every license, certificate, and registration authorizing you to engage in the practice of [profession] in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form. Please also attach a copy of each of your current licenses, certificates, and registrations.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Have you ever had a license or certification to practice [profession] revoked or suspended?

Yes No

3. Have you ever been subject to any disciplinary action or proceeding by a licensing body?

Yes No

4. Have you ever allowed any license or certification to practice [profession] to cancel or to remain in expired status without renewal?

Yes No

5. If you answered "Yes" to any of questions 2-3, please explain (*attach additional page(s) if necessary*): _____

PART 4 – SPONSORED EVENT

1. Name of non-profit or community-based organization hosting the free healthcare event (the "sponsoring entity"): _____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

5. Please specify the healthcare services you intend to provide: _____

6. Name and phone number of contact person with sponsoring entity: _____

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice [profession].
- I will comply with all applicable practice requirements required of licensed [profession]s and all regulations of the Board.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and/or certification and within the scope of practice for California-licensed [profession]s.
- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.
- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.
- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- All information provided by me in this application is true and complete to the best of my knowledge. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the board deems necessary.

Signature

Date

Name Printed: _____

[BOARD NAME]

INITIAL STATEMENT OF REASONS

Hearing Date: _____

Subject Matter of Proposed Regulations: Sponsored Free Health Care Events

(1) Section(s) Affected: Title 16, Division *, Article *, Adopt Sections [1-4]

Introduction

On September 23, 2010, Governor Arnold Schwarzenegger signed AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting Business and Professions Code Section 901 (“§ 901”), which takes effect January 1, 2011. This statute provides a regulatory framework for certain health care events at which free care is offered to uninsured or under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. Prior to this enactment, licensing laws precluded the participation of volunteers licensed outside of California. § 901 defines “sponsoring entities,” “sponsored events,” and “health care practitioners,” and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

These proposed regulations would implement, interpret, and make specific the provisions of § 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The board’s highest priority is the protection of the public and these proposed regulations are intended to implement § 901 in a manner that will provide the greatest protection for the people of California.

Specific Purpose of each adoption, amendment, or repeal:

Adopt section [1] (Definitions) – This section is needed to clarify the language of the statute. Specifically, the definition of “community-based organization” is necessary because there is no statutory definition. The definition of “out-of-state practitioner” is needed to clarify which practitioners the proposed regulations are intended to affect.

Factual Basis/Rationale:

“Community-based organization” is listed in the statute as one type of sponsoring entity. There is no definition of such an entity in state statute. The proposed definition of this term therefore is derived from a federal law (Title 20 USCA section 7801 related to education law) that does contain a definition of “community-based organization.” This definition provides much-needed clarity to the term.

The statute defines “health care practitioner” as any person who engages in acts subject to licensure under Division 2 of the Business and Professions Code. The proposed regulations, along with the operative provisions of § 901, however, concern specifically health care practitioners licensed to practice [profession] in other states and territories. Therefore, in order to provide clarity for purposes of the text of the regulations, the definition of “out-of-state practitioner” is proposed. The definition is based upon the criteria set forth in § 901(b).

Adopt section [2(a)] (Sponsoring Entity Registration) – This section establishes a timeframe for submission of a sponsoring entity’s registration form and prescribes a registration form to be used.

Factual Basis/Rationale:

Sponsoring entities are required under § 901 (d) to register with the board if they will have out-of-state practitioners participating in their sponsored event. Therefore, the proposed regulation implements the statute by providing a form that a sponsoring entity can use to meet this requirement. The form includes space for all of the information required to be submitted under the statute. Also, the proposed regulation requires that sponsoring entities submit their registration forms no later than 90 days prior to the sponsored events. This is proposed in order to allow for sufficient time for review of the registration information and to have the registration in place prior to receipt of participation authorization requests from out-of-state practitioners.

Adopt section [2(b)] (Determination of Completeness of Form) – This section provides a mechanism for the board to delegate the receipt and review of the sponsoring entity registration form along with criteria for accepting or rejecting the registration.

Factual Basis/Rationale:

Because sponsoring entities may be required to register with multiple boards under § 901 (d), the proposed regulation allows the board to delegate the authority to receive and process the registration form to the Department of Consumer Affairs. Assuming that all applicable boards make this delegation, the sponsoring entity need only file one registration form and the Department will notify the boards that the sponsoring entity submitted a complete form. This proposed regulation also specifies that the registration

form need be complete in order to be accepted and that all deficiencies must be corrected at least 30 days prior to the commencement of the sponsored event. This requirement is needed in order to ensure the board that the entity has provided all required information including the correct contact information for the sponsoring entity when the event commences.

Adopt section [2(c)] (Recordkeeping Requirements) – This section implements and makes specific the recordkeeping requirements of sponsoring entities set forth in § 901 (g).

Factual Basis/Rationale:

§ 901(g) specifies certain records that sponsoring entities must maintain and requires entities to furnish these records upon request to the board. In order to implement these requirements, the proposed regulation specifies that these records must be kept both at the physical premises of the sponsoring event and at a location in California for the statutorily required five-year period. Having these records available at the event and, thereafter, at a location in California is necessary in order to provide the board with access to the records. Further, the proposed regulation specifies that the records may be kept in either paper or electronic form and that the sponsoring entity shall notify the board upon registration of the form of its records. This provision clarifies that either form of records is acceptable to the board.

Adopt section [2(d)] (Requirement of Prior Board Approval) – This section clarifies that authorization must be provided before a sponsoring entity may allow an out-of-state practitioner to participate in a sponsored event.

Factual Basis/Rationale:

§ 901 provides for authorization requirements for out-of-state practitioners and for registration requirements of sponsoring entities. This proposed regulation connects the two requirements by clarifying that a sponsoring entity may not permit an out-of-state practitioner to participate in its event unless and until it receives authorization from the board.

Adopt section [2(e)] (Post-event Report) – This section specifies the information to be provided in the report required under § 901(f)

Factual Basis/Rationale:

§ 901(f) requires a report to be filed with the board by a sponsoring entity within 15 days after a sponsored event and sets forth the minimum information to be included. The statute, however, does not provide any information as to the form of the report. The proposed regulation makes clear the board will accept a report in whichever form the

sponsoring entity chooses. Also, the proposed regulation includes a requirement of each participating out-of-state practitioner that the license number be included in the report. This information is necessary for the board to identify the participants involved.

Adopt section [3(a)] (Request for Authorization to Participate) – This section provides the mechanism by which an out-of-state practitioner may request authorization to participate in a sponsored event.

Factual Basis/Rationale:

Out-of-state practitioners who desire to participate in a sponsored event must request authorization from the board in accordance with § 901(b). The statute specifically requires the board to prescribe a form and set a processing fee for this purpose. The proposed regulation implements § 901(b) by incorporating proposed FORM 901-B to be submitted by the out-of-state practitioner to the board to request authorization to participate. The form provides space for the applicant to include all of the information required by the statute.

The fee of \$_____ has been determined by the board as a reasonable amount to cover the costs to the board for developing the authorization procedure and processing the authorization. *[Insert here any underlying data available as to how the specific fee amount was determined.]*

Additionally, the regulation requires the applicant to submit additional material not specifically listed in the statute. First, the applicant must submit personal identifying information including contact information, the individual's social security number, employer's contact information and either a full set of fingerprints or a Live Scan inquiry. These requirements are reasonably necessary in order for the board to verify the requirement of § 901(b)(1)(B)(i) that the applicant has, "not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under [Business and Professions Code] Section 480." Section 480 authorizes a board to deny licensure based on an applicant's conviction of a crime. A criminal background check is more easily effected if the board has as much personal identifying information as possible. *[If applicable--Further, the board is authorized to require applicants to furnish fingerprints for criminal background checks under Business and Professions Code section 144.]*

§ 901(b) also provides that applicants seeking authorization to participate must meet the educational and experience requirements determined by the board. The board has determined that *[insert here the educational and experience requirements, if any, as determined by the board along with any underlying data used to make the determination]*. It is the opinion of the board that these minimum requirements are necessary to protect the public from inexperienced or unqualified practitioners who have not met the board's full requirements for licensure.

Adopt section [3(b)] (Response to Request for Authorization to Participate) – This section sets forth the standard timeframe in which the board shall grant or deny the authorization request.

Factual Basis/Rationale:

§901(b)(1)(A) provides that the board shall notify the sponsoring entity within 20 days of receiving a request for authorization to participate whether that request is approved or denied. The proposed regulation sets forth this statutory requirement and is necessary in order to restate the standard timeframe for response by the board within the context of the regulations.

Adopt section [3(c)] (Denial of Request to Participate) – This section sets forth the criteria under which the board must or may deny a request for authorization to participate.

Factual Basis/Rationale:

The statute provides that the board must authorize the participation of out-of-state practitioners in sponsored events, but it does not list specific criteria for denial of authorization other than if a practitioner, “fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.” Therefore, it is necessary to provide at least some specific detail as to the criteria the board will use beyond the general authorization to deny an application.

The board has determined that the failure of an applicant to respond within seven days to a request for additional information will result in an automatic denial of a request. Because the board only has 20 days in which to grant or deny a request, timing is critical and the board’s opinion is that failure of an applicant to respond within seven calendar days will sufficiently jeopardize the board’s ability to effectively review a complete application within the allotted time.

Further, a failure to meet any of the specified educational and experience requirements determined by the board and discussed under section [3(a)] of these proposed regulations will constitute an automatic denial of the application. The Board has determined that these criteria are necessary to protect the public from inexperienced or unqualified practitioners that have not met the board’s full requirements for licensure. *[Discuss reasons for using specific criteria here as appropriate]*

The proposed regulation also sets forth discretionary reasons for denying a request. The first of these is that the application is not received within 20 days prior to the event. § 901(b)(1)(A) provides that the board shall use reasonable efforts to notify the sponsoring entity within this time. The proposed regulation, however, provides needed

clarity to the statute that, in the event that the statutorily required reasonable efforts are insufficient to review the application in advance of the event, the board may then deny the request. It would be counter to the board's consumer protection mandate to require it to grant authorization to an individual whose request is submitted in so short a time before the scheduled event that it cannot adequately be reviewed.

The other discretionary reasons for denial are based upon the past actions of the board with respect to that particular individual. The board is of the opinion that if an applicant has previously had a request denied or an authorization terminated, this alone may be cause for a subsequent denial. Because the time for review of the authorization is only 20 days, the board may not have time to revisit the case of an individual who has already been determined by the board as unfit to participate. The board feels that it is reasonable, however, to consider this a discretionary decision so that, on a case-by-case basis, the board can reevaluate a particular individual's circumstances as appropriate if sufficient time exists to do so without compromising public protection.

Finally, the board feels that it is reasonable and necessary to include discretionary denial authority in the event that an applicant has participated in [*insert here the # of events decided*] within the 12-month period immediately preceding the current application. The board feels that, in an effort to maintain the integrity of the state's licensing laws and, thus, protect the public, it should have discretion to deny permission to applicants when the board recognizes that a particular applicant practices in California without a license on multiple occasions within the span of one year. Such a situation would frustrate the purpose of the "temporary" nature of the exemption from licensure permitted under § 901.

Adopt section [3(d)] (Appeal of Denial) – This section provides an appeal procedure for an applicant who has had a request for authorization to participate denied by the board.

Factual Basis/Rationale:

§ 901 allows for the denial of a request for authorization to participate, but it does not provide any appeal procedure for the denied individual. In order to ensure some measure of due process, the board feels that applicants should have access to the same appeal procedure available for an out-of-state practitioner who has had his or her authorization terminated. Therefore, the proposed regulation references the appeal procedure in section [4] of these proposed regulations, discussed below. This will provide consistency in the two appeal processes.

Adopt section [4(a)] (Grounds for Termination of Authorization) – This section provides the grounds upon which the board may terminate the authorization to participate previously granted to an out-of-state practitioner.

Factual Basis/Rationale:

The first two grounds for termination listed in the proposed regulation are consistent with § 901(j)(1). As an additional ground for termination, this proposed regulation adds the receipt of a credible complaint indicating that the practitioner is unfit to practice or is endangering the public. This provision is necessary in order for the board to act consistently with its mandate that protection of the public is its highest priority. Because of the permissive and temporary nature of the licensure exemption granted under § 901, and the limited time which the board has to review and verify the qualifications of the out-of-state practitioner, the board feels that it is essential that it may act immediately to terminate the authorization to participate granted to the non-California licensed individual when a credible complaint of endangerment is received.

Adopt section [4(b)] (Notice of Termination) – This section specifies written notice of a termination may be given during a sponsored event.

Factual Basis/Rationale:

The statute provides that written notice of a termination shall be given to both the sponsoring entity as well as the individual practitioner. This proposed regulation is necessary to clarify that in the event a termination is issued during the course of a sponsored event, the board may provide the written termination notice to any representative of the sponsoring entity on the premises of the event. The most expeditious way to notify the entity is at the event itself so that the practitioner will be instructed to cease practice immediately.

Adopt section [4(c)] (Consequences of Termination) – This section sets forth the consequences of a termination of an authorization to participate and how the board will report the fact of the termination.

Factual Basis/Rationale:

§ 901(j)(3) provides that out-of-state practitioners shall not provide services under this statute following a termination of authorization. The proposed regulation specifies that the practitioner shall “immediately” cease their participation in the event. The board feels that this clarification is necessary in the event that a termination is issued during the course of an event. In case there is any confusion as to when the termination becomes effective, this proposed provision would be necessary to remove any doubt that the practitioner must immediately desist from participation as soon as the termination notice is received.

The proposed regulation also provides that the board will consider a termination of authorization a disciplinary measure that is reportable to the national practitioner data banks and the individual’s out-of-state licensing authority(ies). The board views these

provisions as reasonably necessary and logical in order to protect the public. The grounds for termination are criteria that the board itself would consider as disciplinary measures for its own licensees *[cite appropriate statutory provisions if available]*. Therefore, because the board does not have licensing authority over the out-of-state practitioner, its only disciplinary remedy is to report the conduct to the individual's home jurisdiction and applicable national practitioner data bases. If the conduct is such that it would lead to action against the practitioner's out-of-state license, then the board would have that information available to it in the event that the individual applied for either a subsequent authorization to participate in a future sponsored event or a license to practice in California.

Adopt section [4(d)] (Appeal of Termination) – This section provides the procedure for appealing denials of authorization and terminations of authorizations to participate.

Factual Basis/Rationale:

The statute allows for an out-of-state practitioner who has had his or her authorization to participate terminated by the board to file a written appeal to the board within 30 days of receipt of the termination notice. The proposed regulation specifies that this request for appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (APA). This is potentially a less costly system than the formal hearing procedure and is warranted for removal of this type of authorization.

Adopt section [4(e)] (Informal Conference Option) – This section provides an alternative to a hearing under the APA for appeals submitted by out-of-state practitioners.

Factual Basis/Rationale:

§ 901(j) allows for the filing of an appeal by an out-of-state practitioner. In addition to the APA procedure set forth in proposed section [4(d)] above, this proposed regulation also offers the appealing out-of-state practitioner the option of an informal conference with the board's executive officer to try and resolve the appeal. This proposed regulation is consistent with the board's practice for its own licensees who have been issued a citation *[cite applicable code/regulatory section]* and provides an inexpensive option to ensure the efficient resolution of appeals when possible. The informal conference option proposed does not affect the appellant's right to a hearing under the APA.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any): *[Include here underlying data used to determine the amount of the fee; must include cost basis calculations to support fee amount chosen. Also include any data used to underlie the*

educational/experience requirements].

Business Impact

 X This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The regulation only impacts nonprofit organizations sponsoring free health care events and practitioners from other states volunteering in California. There is some impact to the out-of-state volunteers in that they will be required to submit the processing fee to receive authorization to participate. This fee will have to be factored into the cost of that individual's volunteerism. The fee may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records of their volunteers, reporting to boards after events and filing a registration as appropriate. Those costs are imposed by the statute and not by these regulations

 Description of alternatives which would lessen any significant adverse impact on business:

N/A

Specific Technologies or Equipment

 X This regulation does not mandate the use of specific technologies or equipment.

 This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. The board is directed by statute to develop these regulations and there is, thus, no other method of developing the forms and procedure for registering sponsoring entities and granting

authorization for requests by out-of-state practitioners to participate in sponsored events.

One possible alternative is to delay or refrain from promulgating any regulations – i.e., maintain the status quo. This is not reasonable because the statute contemplates a registration and fee process to be developed by the board to implement the statute. By not creating a procedure, the board would frustrate the purpose of the statute, which is intended to provide an opportunity for out-of-state licensed volunteers to participate in certain free health care events. Also, it is not reasonable to delay because the statute has a sunset date of January 1, 2014. Because the statute is only effective for three years, it is incumbent on the board to implement the required processes as soon as possible.

Assembly Bill No. 2699

CHAPTER 270

An act to amend Section 900 of, and to add and repeal Section 901 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 23, 2010. Filed with Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2699, Bass. Healing arts: licensure exemption.

Existing law provides for the licensure and regulation of various healing arts practitioners by boards within the Department of Consumer Affairs. Existing law provides an exemption from these requirements for a health care practitioner licensed in another state who offers or provides health care for which he or she is licensed during a state of emergency, as defined, and upon request of the Director of the Emergency Medical Services Authority, as specified.

This bill would also provide, until January 1, 2014, an exemption from the licensure and regulation requirements for a health care practitioner, as defined, licensed or certified in good standing in another state or states, who offers or provides health care services for which he or she is licensed or certified through a sponsored event, as defined, (1) to uninsured or underinsured persons, (2) on a short-term voluntary basis, (3) in association with a sponsoring entity that registers with the applicable healing arts board, as defined, and provides specified information to the county health department of the county in which the health care services will be provided, and (4) without charge to the recipient or a 3rd party on behalf of the recipient, as specified. The bill would also require an exempt health care practitioner to obtain prior authorization to provide these services from the applicable licensing board, as defined, and to satisfy other specified requirements, including payment of a fee as determined by the applicable licensing board. The bill would require the applicable licensing board to notify the sponsoring entity, as defined, of the sponsored event whether the board approves or denies a request for authorization to provide these services within 20 days of receipt of the request. The bill would also prohibit a contract of liability insurance issued, amended, or renewed on or after January 1, 2011, from excluding coverage of these practitioners or a sponsoring entity for providing care under these provisions.

Because this bill would expand the definition of certain crimes, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 900 of the Business and Professions Code is amended to read:

900. (a) Nothing in this division applies to a health care practitioner licensed in another state or territory of the United States who offers or provides health care for which he or she is licensed, if the health care is provided only during a state of emergency as defined in subdivision (b) of Section 8558 of the Government Code, which emergency overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority.

(b) The director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed.

(c) Health care practitioners shall provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director.

(d) Health care practitioners deployed pursuant to this chapter shall provide the appropriate California licensing authority with verification of licensure upon request.

(e) Health care practitioners providing health care pursuant to this chapter shall have immunity from liability for services rendered as specified in Section 8659 of the Government Code.

(f) For the purposes of this section, “health care practitioner” means any person who engages in acts which are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(g) For purposes of this section, “director” means the Director of the Emergency Medical Services Authority who shall have the powers specified in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

SEC. 2. Section 901 is added to the Business and Professions Code, to read:

901. (a) For purposes of this section, the following provisions apply:

(1) “Board” means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) “Health care practitioner” means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) “Sponsored event” means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) “Sponsoring entity” means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) “Uninsured or underinsured person” means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (c).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care

practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(l) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Attachment C: Relevant Code Sections

§4980.01. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) (1) This chapter shall not apply to an employee working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(A) A governmental entity.

(B) A school, college, or university.

(C) An institution that is both nonprofit and charitable.

(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board

§4996.14. EMPLOYEES OF CERTAIN ORGANIZATIONS; ACTIVITIES OF PSYCHOSOCIAL NATURE

(a) This chapter shall not apply to an employee who is working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(1) A governmental entity.

(2) A school, college, or university.

(3) An institution that is both nonprofit and charitable.

(b) This chapter shall not apply to a volunteer who is working in any of the settings described in subdivision (a) if his or her work is performed solely under the supervision of the entity, school, college, university, or institution.

(c) This chapter shall not apply to a person using hypnotic techniques by referral from any of the following persons if his or her practice is performed solely under the supervision of the employer:

- (1) A person licensed to practice medicine.
- (2) A person licensed to practice dentistry.
- (3) A person licensed to practice psychology.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

§4999.22. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES

(a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words “licensed professional clinical counselor” and shall not state that they are licensed to practice professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Marriage and Family Therapy.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a governmental entity or a school, college, or university, or of an institution both nonprofit and charitable, if his or her practice is performed solely under the supervision of the entity, school, college, university, or institution by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(e) All persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

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To: Licensing and Examination Committee

Date: March 10, 2011

From: Rosanne Helms
Legislative Analyst

Telephone: (916) 574-7897

Subject: Hours of Experience Required for ASWs

Background

At the Policy and Advocacy meeting on April 9, 2010, Mr. Herbert Weiner, an Associate Clinical Social Worker (ASW), requested the Board re-examine the requirement that hours of experience an ASW gains toward licensure must be gained within a six-year time frame. He cited his difficult experience in gaining those hours within that time frame, citing his age (71), and cutbacks related to the economic recession as primary reasons for his difficulty.

Specifically, the section of law Mr. Weiner is referring to is Business and Professions (B&P) Code Section 4996.23 (a)(4), which states that "A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed."

A similar requirement is in place for those seeking MFT, LEP, and LPCC licenses.

This issue was re-addressed at the Licensing and Examination Committee (Committee) meeting on September 13, 2010. At that time, the focus shifted from the six-year timeframe requirement possibly being a roadblock for ASWs trying to gain experience, to the possibility that the problem might be stricter requirements for experience hours on ASWs. Given current economic conditions, the question was raised of whether it is more difficult to gain hours of supervision under a specific type of practitioner. Of the required 3,200 hours of post-master's degree supervised experience providing clinical social work, at least 1,700 of these hours must be gained under the supervision of a licensed clinical social worker (B&P Code §4996.23(a)). This specific requirement of ASWs is not required of marriage and family therapy interns (IMFs). The Committee directed staff to research this issue further, including gathering additional data to identify any trends of ASWs having difficulty obtaining supervision under a licensed clinical social worker (LCSW) in order to meet the experience requirements necessary to enter the examination cycle.

History

Prior to 2004, ASWs were required to complete 2,200 of their 3,200 hours of supervised experience under the supervision of an LCSW. SB 1077, passed in 2003, softened this requirement, allowing

ASWs to complete 1,700 of their 3,200 hours of supervised experience under the supervision of an LCSW. This requirement is still in place today.

Trends

In July 2008, Board of Behavioral Sciences (Board) conducted a study of its licensing processes based on data for all 2002, 2003, and 2004 graduates that registered with the Board. Below is a table that shows the time (in years) involved from graduation to license, and from registration application submission to license, for three graduating classes. It shows that, for those graduating classes, it typically takes approximately 3 to 4 years for an ASW to obtain a license once they have submitted their registration application.

Table 1: Average Years from Graduation to License and Registration Application Submission to License

Timeframe (in years)	2002 Grads	2003 Grads	2004 Grads
	ASW	ASW	ASW
Grad to License	4.55	3.99	3.40
Registration Application Submission to License	4.13	3.66	3.09

This data, however, does not take into account the possibility of more severe recent effects on time to licensure that may be due to the current economic downturn.

In order to determine whether the current economic downturn is causing ASW registrants to have difficulty obtaining their 1,700 hours of experience under the supervision of an LCSW, and to determine if ASW registrants are having difficulty obtaining their 3,200 hours of supervised experience within a six year timeframe, Board staff randomly surveyed files of 100 ASW applicants who obtained examination eligibility in either 2009 or 2010. A registrant who obtained examination eligibility within these years would have successfully obtained all of their 3,200 hours of experience within the past six years, despite the recent poor state of the economy. Specifically, the following two factors were examined:

1. How many years is it taking ASWs to gain all of their 3,200 experience hours; and
2. At the time they are approved for examination eligibility, how many hours have they accrued under the supervision of an LCSW, and how many, if any, hours do they have above and beyond the 1,700 minimum hours requirement?

How many years is it taking ASWs to gain all of their 3,200 experience hours?

For the 100 ASWs sampled, it was taking an average of 3.1 years for them to gain all of their 3,200 experience hours. If the median is examined, which gives a better picture of middle values and less weight to extreme cases, it is taking approximately 2.8 years.

This data suggests that the economy is not significantly preventing ASWs from obtaining the experience needed to gain licensure. On average, they are able to complete the experience within three years, even though the law allows them a six year timeframe.

Chart 1 shows that of the 100 ASWs sampled, 81% were able to obtain the required experience to earn examination eligibility in a timeframe of greater than two years but less than four years.

How many hours were accrued under the supervision of an LCSW?

The data above, however, does not address the relative difficulty of an ASW in gaining the 1,700 hours of experience needed under an LCSW. If they were having great difficulty, one would expect to see a majority of registrants obtaining only the minimum 1,700 hours required.

Staff examined the sample of 100 ASWs to see how many of the 3,200 required hours were obtained under the supervision of an LCSW. Additionally, the percentage of these hours above and beyond 1,700 was calculated for each registrant.

If the ASW population were having great difficulty obtaining supervised experience under an LCSW, it would be expected that for the majority, hours accrued under an LCSW would be very close to 1,700, and the percentage of hours accrued under an LCSW above and beyond 1,700 would be close to zero. Instead, staff found a different situation. Of the 100 files surveyed, the average number of hours obtained under LCSW supervision was 3,438, approximately double the 1,700 minimum. The median was 3,425 hours. It was also found that on average, an ASW will exceed the 1,700 minimum LCSW supervised hours requirement by 102%.

Chart 2 shows that only 6% of ASW registrants are able to obtain only between the minimum 1,700 hours and 10 percent over the minimum requirement. A much greater percentage (42%) are able to exceed the 1,700 hour requirement by 10% to 100%.

These findings lead to a conclusion that ASWs are, on average, able to obtain their 3,200 hours of supervised experience well within a six year time frame. They are also, on average, able to greatly exceed the requirement of 1,700 hours of supervised experience under an LCSW, also within the six year timeframe.

Recommended Action

Conduct an open discussion regarding whether the requirement that ASWs be required to gain 1,700 of their experience hours under the supervision of an LCSW should be changed.

Attachments

Chart 1: Years needed to obtain required experience

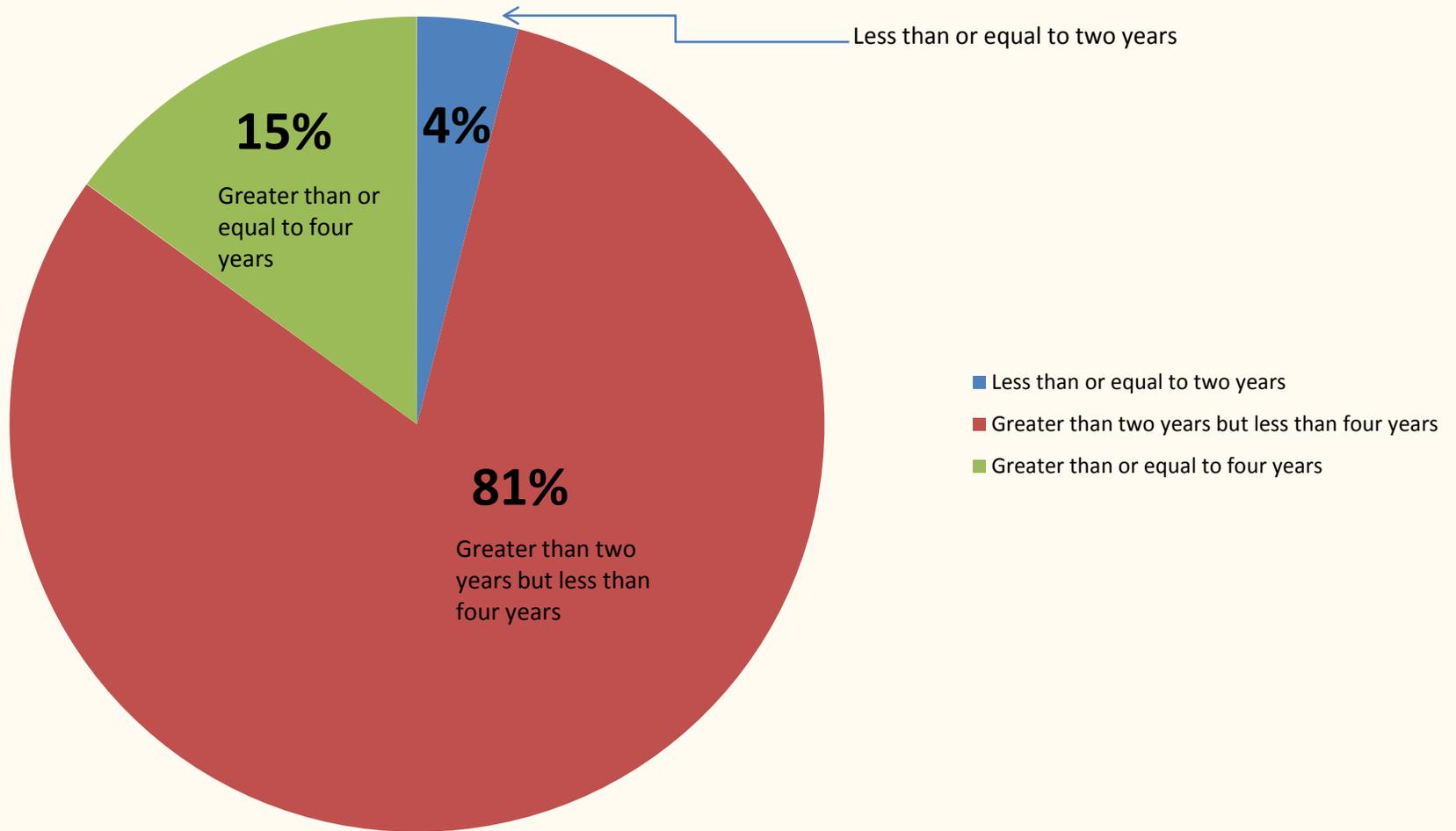
Chart 2: Percentage of LCSW-supervised experience hours over 1,700 minimum requirement

Letter from Mr. Herbert Weiner

Copy of Mr. Weiner's testimony before the Policy & Advocacy Committee on April 9, 2010

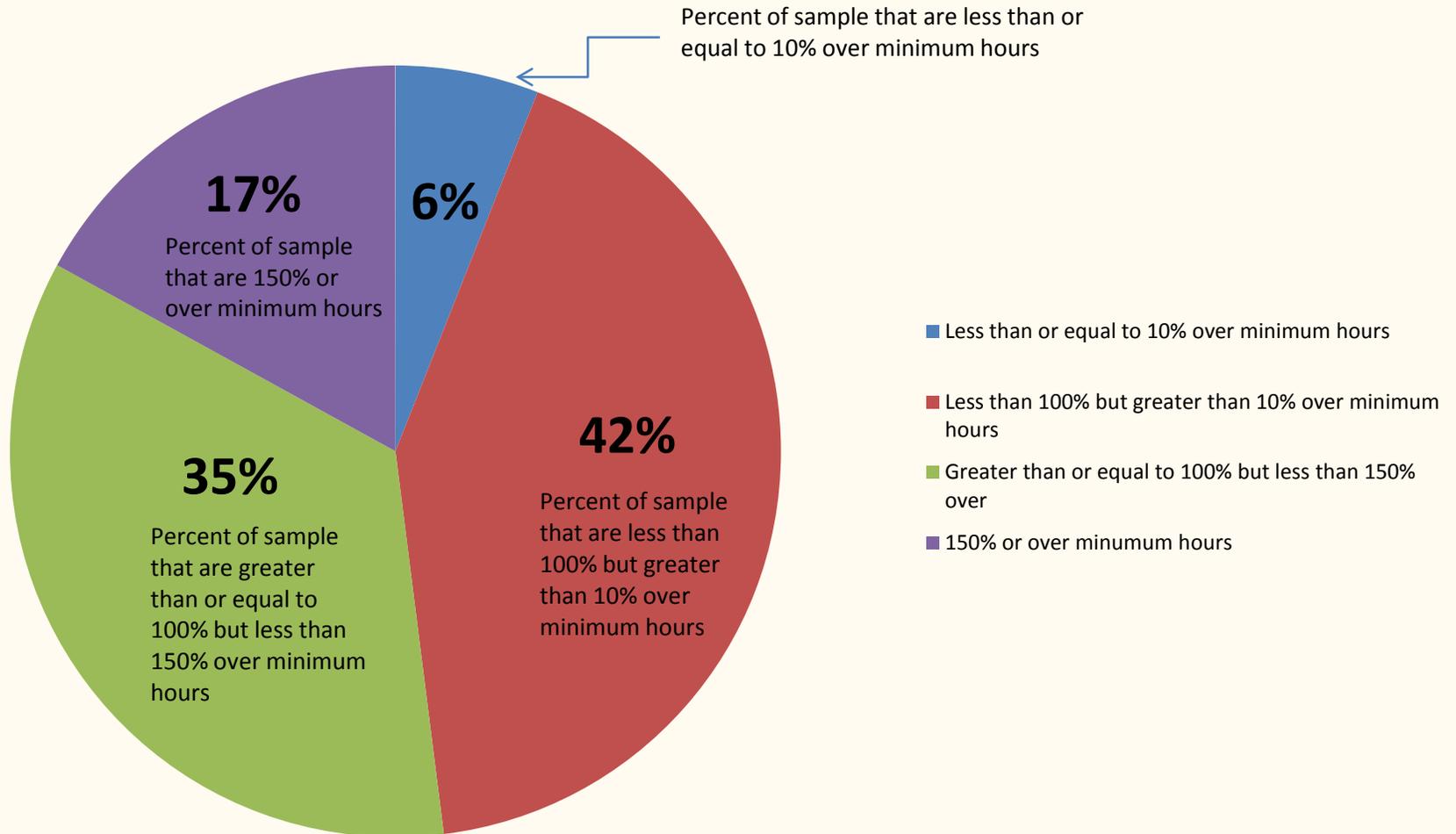
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Chart 1
Years Needed to Obtain Required Experience
(Sample of 100 ASWs Recently Earning Exam Eligibility)



Based on a sample of 100 ASW Registrants who obtained exam eligibility with BBS within the past year.

Chart 2 Percentage of LCSW-Supervised Experience Hours over 1,700 Minimum Requirement (Sample of 100 ASWs Recently Earning Exam Eligibility)



Based on a sample of 100 ASW Registrants who obtained exam eligibility with BBS within the past year.

Herbert J. Weiner MSW Ph.D.
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May 5, 2007

Ms. Kim Madsen
Executive Officer
Board of Behavioral Sciences
1625 North Market Road, Suite S-200
Sacramento, California
95834

Dear Ms. Madsen:

I wish to thank the Policy Committee for their support and appreciation of my April 9, 2010 presentation in San Francisco on the problems of the six year time frame for accrual of hours for licensure for the Licensed Clinical Social Worker specialization. In addition to the problem of equity for Associate Social Workers, there is the question of providing the adequate number of clinicians, including LCSWs, to meet the mental health needs of this State, notably individuals who present a danger to themselves and/or others.

This letter inquires as to what the next steps will be to rectify the above inequity. The questions and concerns that I wish to present are as follows:

- Will BBS present this problem to the State legislature or will it, on its own accord, initiate action as an agency?
- What is the reasoning behind B&P Code 4996.23? Why does the six year time frame for accrual of, the required 3200 hours, specified by this regulation, exist? How is such a time frame in conformity with professional standards or needs of the BBS, profession and practice?
- What significant parties should be contacted about this matter? I would like the names of those in the State Legislature who address such matters, as well as other related agencies, organizations and schools of social work.
- Have other individuals been similarly affected by the six year time frame? Because of the difficulty in attaining internships, this problem may not be a unique case.

I greatly appreciate clarification of the above, because the six year time frame has greatly interfered with my desire to be licensed as a LCSW.

Any assistance or advice that you can provide will be greatly appreciated and welcome.

I look forward to your response and thank you for your assistance.

Very truly yours,

Herbert J. Weiner

cc: Renee B. Lonner, LCSW

Testimony before the Board of Behavioral Sciences' Policy Committee
April 9, 2010

Honorable Members of This Committee:

The problem that I wish to bring to your attention is one that affects me, but may affect others as well.

I registered my first internship with the Board of Behavioral Sciences in April 2004, six years ago to this month. Presently, I have not accumulated the required 3200 hours in the six year time frame, and will begin losing credit for my hours of 2004 beginning this month. This forces me to accrue additional hours to fulfill the State's requirements.

The Board can legitimately ask as why these hours were not completed. There are three major factors in my case. Firstly, I am 71 years of age; institutions and agencies favor younger interns. This is ageism writ large and clear. My 36 years in a public social services agency working with the physically and mentally impaired, a Masters Degree in Social Work, a Ph.D. in Clinical Psychology, and three recent internships with favorable evaluations clearly show that my age is not an obstacle but an asset. You should be asking if such prejudice applies to others who are older. This prejudice has been confirmed by other professionals in the field.

Secondly, the recession of the economy and lack of funds have also affected availability. It has been hard for me to secure internships, due to this. In between internships, I had to wait 10 months in the six year time frame. Two of my internships have been under Marriage Family Therapy supervisors which does not detract from my excellent learning experience with them. But now I must have supervision under Licensed Clinical Social Workers. This further complicates the finding of available internships, as the six year time frame nullifies the required hours of internship accrued under my first internship which was under LCSW supervision.

Thirdly, the hours of two internships were limited to 10 hours weekly which limited accrual of hours within the six year limitation. This is not the fault of the supervisors who had many to supervise in addition to other responsibilities.

I do not regret my learning experience, which perfected my clinical skills under three competent, supportive supervisors. I do regret the lack of accreditation for my experience.

In better economic times and greater mental health resources, accruing required hours would not constitute such a problem. Now this does. In my opinion, the Board should revise its policy and standards for accrual to reflect present social and economic circumstances.

In addition to problems of equity, there are broader societal concerns. Recently, a man from San Jose, identified as mentally disturbed, opened fire on Pentagon police, resulting in his being shot to death, Shouldn't this man have received treatment to prevent such a tragedy? He fell through the cracks, undoubtedly due to lack of resources, and paid for this neglect with his life.

There are, to be sure, others like this unfortunate gentleman. They walk the streets in emotional pain, constituting a danger to themselves and/or others. A mission of the Board of Behavioral Sciences is to protect the consumer of mental health services against abuse in the clinical setting. Shouldn't it also be responsible for protecting the public by provision of adequate numbers of clinicians? This is a homeland security issue.

The six year rule will make me unavailable for provision of services for a longer period of time. Are others in my position and predicament? I am more than willing to work with severely disturbed individuals, but am impeded by this requirement.

Please reexamine this rule which harms clinical candidates and flies in the face of public interest and homeland security.

Respectfully submitted,

Herbert J. Weiner
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To: Licensing and Examination Committee

Date: March 10, 2011

From: Tracy Rhine
Assistant Executive Officer

Telephone: (916) 574-7830

**Subject: The Holistic Review of the Board's Examination Programs by Applied
Measurement Services, LLC**

In September 2008 the Board contracted with Applied Measurement Services, LLC (AMS) to conduct a holistic review of the Board's licensing examination programs, focusing on the assessment of how Mental Health Service Act transformation principals and associated mental health practice competencies are represented in the examinations.

Dr. Tracy Montez of AMS is before the Committee today to present her findings and conclude this phase of the Board's study of the licensing examination process. Please find attached two documents submitted for review by AMS: *Board of Behavioral Sciences Holistic Examination Program Review Executive Summary Report* and *A Holistic Review of the Board of Behavioral Sciences Examination Programs Questionnaire Results*.

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*Board of Behavioral Sciences
Holistic Examination Program Review
Executive Summary Report*

California Department of Consumer Affairs
Board of Behavioral Sciences

Performed by Applied Measurement Services, LLC

Final Report

December 2010

This project was funded by the Mental Health Services Act (MHSA) in partnership with the California Department of Mental Health and the Board of Behavioral Sciences

Chapter 1: Introduction

Licensing boards and bureaus within the California Department of Consumer Affairs (DCA) are required to ensure that examination programs used in the California licensure process are in compliance with psychometric guidelines and legal standards. The public must be reasonably confident that an individual passing a licensing examination has the requisite knowledge and skills to competently and safely practice in the respective profession.

In September 2008, the DCA Board of Behavioral Sciences (hereafter referred to as “Board”) contracted with Applied Measurement Services, LLC (AMS) to conduct a holistic review of the Board’s licensing examination programs, focusing on the assessment of how Mental Health Service Act (MHSA; Proposition 63) transformation principles and associated mental health practice competencies are represented in the examinations. And, how best to restructure, if needed, their licensing examinations to address associated MHSA objectives and yet maintain the integrity of the licensure process.

The MHSA, approved by voters in November 2004, provides new mental health funding to be used for services such as prevention and early intervention. The MHSA transformation principles and practice competencies include, for example, community collaboration, cultural competence, individual/family-driven programs and interventions, and a wellness focus which includes the concepts of resilience and recovery.

Specific services provided by AMS included the following: (a) acted as a principle psychometric support to the Board’s Examination Program Review Committee (EPRC); (b) met and consulted with Board staff and the Office of Professional Examination Services (OPES) staff; (c) evaluated how competencies needed for prevention of mental illness and working in public mental health and other environments are integrated into the content of the five existing Board examinations (i.e., Licensed Clinical Social Worker (LCSW) Standard Written and Clinical Vignette Examinations, Licensed Educational Psychologist (LEP) Written Examination, and Marriage and Family Therapist (MFT) Standard Written and Clinical Vignette Examinations); (d) prepared for and conducted public meetings held statewide to provide training about examination validation and solicit feedback about the Board’s examination programs; and, (e) completed final reports documenting the results of the contracted services.

These services were conducted according to professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing*

*(Standards)*¹ and *Business and Professions Code Section 139* (see the *Examination Validation Policy*)².

In this report, an executive summary of the EPRC work and associated recommendations are provided. For these contracted services, AMS worked primarily with Kim Madsen, Executive Officer and Tracy Rhine, Assistant Executive Officer. AMS received and reviewed reports and reference materials provided by the Board and other professional organizations. AMS also downloaded materials from various websites (see References for a complete listing).

¹ American Educational Research Association, American Psychological Association, & National Council on Measurement in Education. (1999). *Standards for Educational and Psychological Testing*. Washington, DC: American Educational Research Association.

² California Department of Consumer Affairs. (2004). *Examination Validation Policy*. Sacramento, CA: California Department of Consumer Affairs.

Chapter 2: Examination Program Review Committee

Consistent with Feldman and Lee (2007), the Board recognized that changes needed in California's mental health services and systems would not occur without changes in the mental health workforce. Therefore, the Board appointed the EPRC in February 2008. The purpose of the EPRC was to conduct a holistic review of the Board's LCSW, LEP, and MFT examination programs and to determine if changes were needed in partial response to the MHSA and associated research.

Initially, the EPRC's work focused on listening to stakeholder concerns and obtaining an educational foundation about the examination validation process for all three licensing programs. During this phase, the EPRC received hands on training on the following topics: occupational analysis, examination development (i.e., item writing and review), examination construction, passing scores, examination administration, and information available to candidates. The training occurred during six public meetings held statewide (see Table 1).

Table 1 – Examination Program Review Committee Meetings

Meeting Date	Meeting Location	Examination Validation Training Topic
December 8, 2008	San Diego	Introduction to EPRC
February 2, 2009	Sacramento	Occupational Analysis
March 23, 2009	Irvine	Examination Development (Standard Written)
May 4, 2009	San Jose	Examination Development (Clinical Vignette)
October 5, 2009	Sacramento	Examination Construction & Passing Scores
December 7, 2009	Sacramento	Examination Administration & Information Available to Candidates

During each meeting, the EPRC stated that it recognized issues unique to each profession would arise. To address these issues, the EPRC structured time within the meetings, in addition to the hands-on training, to separately address the issues for each profession.

The EPRC conducted an open-ended inquiry to gather information. Stakeholders and interested parties were given opportunities to provide input, feedback, and express their issues regarding the examination programs and associated MHSA competencies.

At the December 7, 2009 meeting, in addition to receiving training, the EPRC discussed recommendations for Board consideration at the January 23, 2010 meeting. Those recommendations are presented on the following pages. These recommendations are consistent with two key objectives outlined by Feldman and Lee (2007):

- Bring about changes in licensing requirements and practice restrictions that unnecessarily limit access to needed mental health services.
- Increase the number of well-qualified mental health practitioners and improve their distribution throughout California.

Since the January 2010 meeting, subsequent meetings have reported progress toward implementing recommendations 1, 2, 3, and 7. It is expected that recommendations 4, 5, and 6 will be addressed as staffing and technical resources become available.

Table 2 – Examination Program Review Committee Recommendations

Recommendations
1. Implement a revised examination program for the LCSW and the MFT licenses.
2. Continue to collaborate with the Association of Social Work Boards (ASWB) as directed by the Board and consider the ASWB examination in its work as it relates to licensure for clinical social work.
3. Continue to collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform an occupational analysis.
4. Evaluate the feasibility of providing candidates with a practice examination for each profession. At a minimum, revise LCSW, LEP and MFT Examination Study Guide sample questions to represent updated, job-related content as well as question format.
5. Conduct a survey of reference materials (e.g., textbooks) used by schools to assist with examination development efforts.
6. Evaluate the feasibility of publishing reference lists in the LCSW, LEP and MFT Examination Study Guides.
7. Expand subject matter expert recruitment pool.

In addition to the EPRC meetings, three workshop meetings were held with LCSW, LEP, and MFT subject matter experts. The purpose of each meeting was to critically compare and evaluate the LCSW, LEP, and MFT examination plans against identified mental health competencies. The results of these focus group meetings are presented on the following pages.

This report concludes with the recommendations made from both the EPRC and supporting professional guidelines.

Chapter 3: Comparison of Mental Health Competencies and the Licensed Educational Psychologist Examination Plan

A meeting was held June 5, 2009 to critically compare and evaluate the LEP examination plan and identified mental health competencies. These competencies emerged as key themes from a review of the literature associated with the MHSA (Proposition 63). The Board, with direction from the OPES, recruited subject matter experts (SMEs) to participate in the meeting. Six SMEs attended the meeting.

SMEs represented both northern and southern California, were from urban areas, had been licensed from 2 years to 29 years ($M=15$ years licensed), and worked from 10 to 40 hours a week as a LEP in school or private practice settings. SMEs completed both Security Agreement and Personal Data forms which are on file with the OPES and document SME information.

An orientation was provided by AMS explaining contracted project objectives, goals of the meeting, and role of the SMEs. Specifically, the primary goal of the meeting was to evaluate the extent to which important mental health competencies are measured in the examination.

Once the SMEs understood the purpose of the contracted project and the goals of the meeting, they independently reviewed the LEP examination plan, MHSA document, and a competencies linkage worksheet. Next, AMS facilitated a group discussion about the competencies and how they are measured or represented in the LEP examination plan. SMEs were also encouraged to add competencies that were not listed and specific to the emerging trends associated with the MHSA.

Table 3 presents a sample of task statements located in the LEP examination plan linked to the identified competencies or key themes. Comments are also included. These results are not intended to represent a complete linkage, only to demonstrate whether the competencies are assessed or measured by the examination.

It should be noted that most of the competencies appear to be represented and measured throughout the LEP Written Examination. Many of the competencies are represented by numerous task statements (e.g., standards of care for children, prevention and early intervention). Others are measured by a few task statements (e.g., older adult services). Three areas were found not to be measured in the examination: group therapy, rehabilitation, telehealth. The task measuring “group therapy” was actually eliminated during the development of the examination plan because it fell below the established critical index (i.e., not appropriate to include in this licensure examination). Rehabilitation was determined to be not applicable to the LEP scope. And, standards for telehealth are not in place at this time and not considered entry-level.

Finally, the following recommendations represent a summary of the comments made by the SMEs. The list is not intended to be comprehensive, rather it is meant to reflect the primary suggestions offered by the group.

- Create a core set of reference materials for publication
- Publish a practice examination
- Continue efforts to educate candidates and public about examination development

Table 3 – Comparison of Mental Health Competencies and LEP Examination Plan

Competencies or Key Themes	Task #s	Comments
Person-centered care / Consumer involvement	5, 35, 36, 38	Represented and measured
Mental health needs of special populations (e.g., homeless, incarcerated individuals, AIDs, etc.)	6	Specific to foster care, dependency situations
Standards of care for children / Child therapy	Numerous	Represented and measured
Adult therapy / services	Numerous	Represented and measured
Older adult therapy / services	53	Represented and measured
Family therapy / services	Numerous	Represented and measured
Group therapy / services		Not represented
Strategies to reduce stigma associated with emotional and behavioral disorders	8, 30	Represented and measured
Strategies to reduce discrimination against individuals with emotional and behavioral disorders	8, 30	Represented and measured
Suicide (assessment, prevention, and treatment)	Numerous	Represented and measured
Culturally competent care	8	Represented and measured
Prevention and early intervention	44, 45	Represented and measured
Mental health promotion interventions	53, 64	Represented and measured
Mental disorder prevention strategies (universal, selective, indicated)	53, 64	Represented and measured
Levels of at-risk	44, 45,	Represented and measured
Risk and protective factors associated with social, environmental, and economic determinants of mental health	44, 45	Represented and measured
Risk and protective factors associated with individual and family determinants of mental health	44, 45	Represented and measured
Co-occurring mental health disorders	7-10, 20	Represented and measured
Substance abuse disorders / substance use disorders	6, 45	Represented and measured
Addictive conditions / disorders	6, 45	Represented and measured
Evidence-based practices	29, 39, 45	Represented and measured
Recovery-oriented care/Recovery-based service system	35, 36, 45	Represented and measured in “Treatment”
Resilience	45	Represented and measured
Rehabilitation		Not represented
Advocacy	Numerous	Represented and measured
Interdisciplinary and multidisciplinary care	Numerous	Represented and measured
Health technology / telehealth		Not represented
Impact of trauma	10, 38	Represented and measured
<i>Wraparound services</i>	51-54	Represented and measured

Chapter 4: Comparison of Mental Health Competencies and the Licensed Clinical Social Worker Examination Plan

A meeting was held May 23, 2009 to critically compare and evaluate the LCSW examination plan and identified mental health competencies. These competencies emerged as key themes from a review of the literature associated with the MHSA (Proposition 63). The Board, with direction from the OPES, recruited SMEs to participate in the meeting. Eight SMEs attended the meeting.

SMEs represented both northern and southern California, were primarily from urban areas, had been licensed from 5 years to 33 years (\underline{M} =20 years licensed), and worked full-time as LCSWs in agency, clinical, county, prison, and private practice settings. SMEs completed both Security Agreement and Personal Data forms which are on file with the OPES and document SME information.

An orientation was provided by AMS explaining contracted project objectives, goals of the meeting, and role of the SMEs. Specifically, the primary goal of the meeting was to evaluate the extent to which important mental health competencies are measured in the examinations.

Once the SMEs understood the purpose of the contracted project and the goals of the meeting, they independently reviewed the LCSW examination plan, MHSA document, and a competencies linkage worksheet. Next, AMS facilitated a group discussion about the competencies and whether they are measured or represented in the LCSW examination plan. SMEs were also encouraged to add competencies that were not listed and specific to the emerging trends associated with the MHSA.

Table 4 presents a sample of task statements located in the LCSW examination plan linked to the identified competencies or key themes. Comments are also included. These results are not intended to represent a complete linkage, only to demonstrate whether the competencies are assessed or measured by the examinations.

It should be noted that most of the competencies appear to be represented and measured throughout the LCSW examinations. Many of the competencies are represented by numerous task statements (e.g., child therapy, family therapy, advocacy). Others are measured by a few task statements (e.g., group therapy, suicide). SMEs also attempted to identify where some competencies were measured at the therapist-client level during the practice application and/or at the policy level, meaning new programs or recent attention targeted at these competency areas. SMEs emphasized that although terms such as “recovery” and “resilience” are not listed in the examination plan, the intent of these concepts are measured. Evidence-based practices were discussed and determined to be measured but perhaps using different jargon. Finally, SMEs indicated that telehealth guidelines were beyond entry-level at this point in time.

The following list of recommendations represent a summary of the comments made by the SMEs. The list is not intended to be comprehensive, rather it is meant to reflect the primary suggestions offered by the group.

- Recognize that measurement of interpersonal skills or clinical performance is important and should be revisited as professional guidelines and technical standards, technology, and fiscal resources provide such an option
- Explore strengthening the supervision requirement to include more accountability of both intern and supervisor; however school liaison may make this option difficult
- Reevaluate exam administration times
- Utilize SME item writers in the occupational analysis workshops
- Create a core set of reference materials for item writer use only
- Continue to publish information to support candidates in the licensure process (e.g., Candidate Study Guide)

Table 4 – Comparison of Mental Health Competencies and LCSW Examination Plan

Competencies or Key Themes	Task #s	Comments
Person-centered care / Consumer involvement	27, 218, 220, 239	Represented and measured
Mental health needs of special populations (e.g., homeless, incarcerated individuals, AIDs, etc.)	168, 175, 187, 253	Represented and measured
Standards of care for children / Child therapy	Sec. V. C.	Represented and measured
Adult therapy	Sec. V. D.	Represented and measured
Older adult therapy	Sec. V. D.	Represented and measured
Family therapy	Sec. V. F.	Represented and measured
Group therapy	Sec. V. D.	Represented and measured
Strategies to reduce stigma associated with emotional and behavioral disorders	Numerous	Measured at therapist-client and public levels
Strategies to reduce discrimination against individuals with emotional and behavioral disorders	Numerous	Measured at therapist-client and public levels
Suicide (assessment, prevention, and treatment)	27, 53, 66	Represented and measured
Culturally competent care	Sec. I. C. 1. b.	Represented and measured
Prevention and early intervention	Numerous	Represented and measured
Mental health promotion interventions	33, 270	Measured at therapist-client level
Mental disorder prevention strategies (universal, selective, indicated)	231, 232	Represented and measured
Levels of at-risk	Sec. I. A.	Represented and measured
Risk and protective factors associated with social, environmental, and economic determinants of mental health	Numerous	Represented and measured
Risk and protective factors associated with individual and family determinants of mental health	Numerous	Represented and measured
Co-occurring mental health disorders	Sec. I. D.	Measured, but possibly more questions needed
Substance abuse disorders / substance use disorders	6, 7	Represented and measured
Addictive conditions / disorders	Sec. I. D.	Represented and measured
Evidence-based practices	85, 156	Possibly too specific, measured differently
Recovery-oriented care/Recovery-based service system	29, 119	Represented and measured
Resilience	20, 33, 81, 97	Represented and measured
Rehabilitation		Not represented in traditional sense
Advocacy	Sec. IV. B.	Measured at therapist-client level
Interdisciplinary and multidisciplinary care	Numerous	Represented and measured
Health technology / telehealth		Not represented
Impact of trauma	Sec. V. A.	Represented and measured
Wraparound services	Sec. IV.	Specific content

Chapter 5: Comparison of Mental Health Competencies and the Marriage and Family Therapist Examination Plan

A meeting was held May 15, 2009 to critically compare and evaluate the MFT examination plan and identified mental health competencies. These competencies emerged as key themes from a review of the literature associated with the MHSA (Proposition 63). The Board, with direction from the OPES, recruited SMEs to participate in the meeting. Seven SMEs attended the meeting.

SMEs represented both northern and southern California, were primarily from urban areas, had been licensed from 3 years to 33 years (M=19 years licensed), and worked full-time as MFTs in agency settings but primarily in private practice. SMEs completed both Security Agreement and Personal Data forms which are on file with the OPES and document SME information.

An orientation was provided by AMS explaining contracted project objectives, goals of the meeting, and role of the SMEs. Specifically, the primary goal of the meeting was to evaluate the extent to which important mental health competencies are measured in the examinations.

Once the SMEs understood the purpose of the contracted project and the goals of the meeting, they independently reviewed the MFT examination plan, a MHSA document, and a competencies linkage worksheet. Next, AMS facilitated a group discussion about the competencies and whether they are measured or represented in the MFT examination plan. SMEs were also encouraged to add competencies that were not listed and specific to the emerging trends associated with the MHSA. “Wraparound services” was added to the list in response to SME feedback.

Table 5 presents a sample of task statements located in the MFT examination plan linked to the identified competencies or key themes. Comments are also included. These results are not intended to represent a complete linkage, only to demonstrate whether the competencies are assessed or measured by the examinations.

It should be noted that most of the competencies appear to be represented and measured throughout the MFT examinations. Many of the competencies are represented by numerous task statements (e.g., child therapy, family therapy). Others are measured by a few task statements (e.g., group therapy, suicide). SMEs also attempted to identify where some competencies were measured at the therapist-client level during the practice application and/or at the policy level, meaning new programs or recent attention targeted at these competency areas. SMEs emphasized that although terms such as “recovery” and “resilience” are not listed in the examination plan, the intent of these concepts are measured (e.g., in Content Area IV. Treatment). Evidence-based practices were viewed as controversial, possibly too specific and not entry-level (i.e., with one exception, Family Psychoeducation). Finally, SMEs indicated that telehealth guidelines were beyond entry-level at this point in time.

The following list of recommendations represent a summary of the comments made by the SMEs. The list is not intended to be comprehensive, rather it is meant to reflect the primary suggestions offered by the group.

- Recognize that measurement of interpersonal skills or clinical performance is important and should be revisited as professional guidelines and technical standards, technology, and fiscal resources provide such an option
- Explore strengthening the supervision requirement to include more accountability of both intern and supervisor
- Explore strengthening the supervision requirement to include measurement of behavior related to clinical performance/practice
- Evaluate implementation of a written multiple-choice examination measuring ethical and legal knowledge upon graduation, prior to supervised hours
- In conjunction with the above recommendation, administer a written multiple-choice examination measuring the other content areas at the end of the supervised hours
- Incorporate clinical vignette style questions into the examination described above
- Reevaluate exam administration times
- Utilize SME item writers in the occupational analysis workshops
- Create a core set of reference materials
- Continue to publish information to support candidates in the licensure process (e.g., Candidate Study Guide)

Table 5 – Comparison of Mental Health Competencies and MFT Examination Plan

Competencies or Key Themes	Task #s	Comments
Person-centered care / Consumer involvement	1, 4	Measured at therapist-client level
Mental health needs of special populations (e.g., homeless, incarcerated individuals, AIDs, etc.)	8, 14, 19, 65	Specific content, not directly measured, loose linkage
Standards of care for children / Child therapy	17, 49, 61	Represented and measured
Adult therapy	Numerous	Represented and measured
Older adult therapy	Numerous	Represented and measured
Family therapy	Numerous	Represented and measured
Group therapy	48, 74	Represented and measured
Strategies to reduce stigma associated with emotional and behavioral disorders	66, 67	Measured at therapist-client level
Strategies to reduce discrimination against individuals with emotional and behavioral disorders	66, 67	Measured at therapist-client level
Suicide (assessment, prevention, and treatment)	25, 31	Represented and measured
Culturally competent care	15, 41, 42, 66, 67	Represented and measured
Prevention and early intervention	Numerous	Represented and measured
Mental health promotion interventions	55, 65, 73	Measured at therapist-client level
Mental disorder prevention strategies (universal, selective, indicated)		Not measured; viewed as public or policy-level
Levels of at-risk	12, 24, 25, 32	Represented and measured
Risk and protective factors associated with social, environmental, and economic determinants of mental health	14, 19	Measured at therapist-client level
Risk and protective factors associated with individual and family determinants of mental health	14, 19	Measured at therapist-client level
Co-occurring mental health disorders	Sec. I. D.	Measured, but possibly more questions needed
Substance abuse disorders / substance use disorders	6, 7	Represented and measured
Addictive conditions / disorders	Sec. I. D.	Represented and measured
Evidence-based practices		Possibly too specific
Recovery-oriented care/Recovery-based service system	65, 66	Represented and measured in “Treatment”
Resilience	24	Represented and measured
Rehabilitation	71	Represented and measured in “Treatment”
Advocacy	72	Measured at therapist-client level
Interdisciplinary and multidisciplinary care	50, 55, 72	Represented and measured
Health technology / telehealth		Not represented
Impact of trauma	30, 36	Represented and measured
Wraparound services		Specific content

Chapter 6: Overall Recommendations

The following list presents the recommendations offered to the Board by the EPRC at the January 23, 2010 meeting as well as comments offered by AMS and supporting professional guidelines.

1. Implement a revised examination program for the Licensed Clinical Social Worker and the Marriage and Family Therapist licenses.

Test #1: Law & Ethics Examination (i.e., upon graduation)

Test #2: Scenario-Based Practice Examination (i.e., after supervised hours)

Comment:

The purpose of a licensing examination is to identify persons who possess the minimum acceptable knowledge and skills to perform the tasks associated with the profession safely and competently; therefore, protecting the public from incompetent practitioners. Also important, barriers to licensure should not be imposed to prevent individuals from entering into the profession. The *Standards* state that the mechanisms for identifying competent practitioners should not be "...so stringent as to unduly restrain the right of qualified individuals to offer their services to the public" (p. 156).

To meet both of these guidelines, examinations included in the multiple-hurdle process to licensure should be independent and measure different but related competencies. By offering the Law & Ethics Examination first, candidates are evaluated against important competencies before undertaking the supervised hours requirement. The Scenario-based Examination would be the final hurdle in the licensure process, testing across job-related clinical competencies identified in the occupational analysis (see *Standard 14.14* below).

2. Continue to collaborate with the Association of Social Work Boards (ASWB) as directed by the Board to consider the ASWB examination in its work as it relates to licensure for clinical social work.

3. Continue to collaborate with the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) to jointly perform an occupational analysis.

Comment:

Both the Board and stakeholders have requested that national examination programs be evaluated in the context of California LCSW and MFT licensure. If the national examination programs are found to be fair, valid, and legally defensible for measuring entry-level competency to practice in California then adoption of the national examinations is appropriate.

As per the May 2008 Board meeting, Board staff is currently collaborating with the ASWB, specifically with their occupational analysis. Discussions are continuing with the AMFTRB. It should be noted that discussion about the use of both national examination programs begun well before these contracted services commenced and with prior Board management.

Standard 14.14

The content domain to be covered by a credentialing test should be defined clearly and justified in terms of the importance of the content for credential-worthy performance in an occupation or profession. A rationale should be provided to support a claim that the knowledge or skills being assessed are required for credential-worthy performance in an occupation and are consistent with the purpose for which the licensing or certification program was instituted. (p. 161)

- 4. Evaluate the feasibility of providing candidates with a practice examination for each profession. At a minimum, revise LCSW, LEP and MFT Examination Study Guide sample questions to represent updated, job-related content as well as question format.**

Comment:

Although the Board's Examination Study Guides provide a thorough explanation of the testing process including sample questions, the availability of practice examinations is consistent with professional guidelines. However, the fiscal impact of exposing quality examination questions should be considered when determining the actual number of questions in the practice examinations.

Standard 3.20

The instructions presented to test takers should contain sufficient detail so that test takers can respond to a task in the manner that the test developer intended. When appropriate, sample material, practice or sample questions, criteria for scoring, and a representative item identified with each major area in the test's classification or domain should be provided to the test takers prior to the administration of the test or included in the testing material as part of the standard administration instructions.

- 5. Conduct a survey of reference materials (e.g., textbooks) used by schools to assist with examination development efforts.**
- 6. Evaluate the feasibility of publishing reference lists in the LCSW, LEP and MFT Examination Study Guides.**

Comment:

Providing candidates with a reference list that includes a *sample* of textbooks used in education and training as well as examination development is consistent with professional guidelines. However, a disclaimer stating for example, "*Following*

is a list of publications that may help you prepare for the written examination. The list does not include all MFT textbooks nor is it intended to be an endorsement of the publications listed” should be considered for inclusion.

It is also important to recognize the need for including reference materials on specific MHSA competencies such as evidence-based practices, recovery and resilience. These references can help to ensure that critical competencies are being assessed in the licensure examination process.

Standard 8.1

Any information about test content and purposes that is available to any test taker prior to testing should be available to *all* test takers. Important information should be available free of charge and in accessible formats. (p. 86)

Standard 8.2

Where appropriate, test takers should be provided, in advance, as much information about the test, the testing process, the intended test use, test scoring criteria, testing policy, and confidentiality protection as is consistent with valid responses. (p. 86)

7. Expand subject matter expert recruitment pool.

Comment:

To create and maintain a fair, valid and legally defensible examination program, subject matter experts must be an integral part of the process. Subject matter experts are practitioners (e.g., LCSWs, LEPs, MFTs) possessing a license, who are in good standing and actively practicing in their respective profession. The *Standards* recognize the significance of using subject matter experts or “expert judges” and discuss their role in exam validation throughout the professional guidelines.

Further, individuals with specific training and experience with MHSA transformation principles, competencies, and objectives should be selected to participate as subject matter experts. This will help to ensure that changes expected by the MHSA are incorporated in the licensing examination process, specifically from the occupational analysis to the actual licensure examination.

Standard 3.6

The type of items, the response formats, scoring procedures, and test administration procedures should be selected based on the purposes of the test . . . The qualifications, relevant experiences, and demographic characteristics of *expert judges* [italics added] should also be documented. (p. 44)

Chapter 7: Conclusions

In keeping with the documented recommendations made by various federal commissions (e.g., Surgeon General's Report & President's New Freedom Commission Report) and state panels (e.g., Mental Health Services Oversight and Accountability Commission), the Board is working to improve and expand the workforce providing mental health services. Further, the Board is working to accomplish this task by restructuring its examination programs, incorporating MHSA competencies, transformation principles, and objectives.

By continuing to provide the public and stakeholders with opportunities to offer feedback about the licensing process, the Board can address both consumers' need for protection and for an efficient and effective mental health workforce.

AMS recommends that the Board continue to work toward accomplishing all of the EPRC recommendations as well as examining, and possibly acting upon, the feedback received by the LCSW, LEP and MFT subject matter experts groups. The Board should continue to explore how MHSA competencies are incorporated in its five licensing examinations as new test items are written to address the task and knowledge statements and reflect literature on important topics such as recovery and resilience.

By following mandates set forth in *Business and Profession Code Section 139*, the Board can be responsive to the MHSA five essential concepts and how those concepts are incorporated into the Board's licensing examinations and consequently how the mental health workforce is shaped.

MHSA Essential Concepts:

- Community collaboration
- Cultural competence
- Client/family-drive mental health system for older adults, adults and transition age youth and family-drive system of care for children and youth
- Wellness focus, which includes the concepts of recovery and resilience
- Integrated service experiences for clients and their families throughout their interactions with the mental health system

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*A Holistic Review of the
Board of Behavioral Sciences
Examination Programs
Questionnaire Results*

California Department of Consumer Affairs
Board of Behavioral Sciences

Performed by Applied Measurement Services, LLC

Final Report

December 2010

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Chapter 1: Examination Program Review Committee Questionnaire

To facilitate opportunities for receiving informal input about all three licensing programs, a survey tool was designed by Applied Measurement Services (AMS), LLC. The Examination Program Review Committee Questionnaire (EPRCQ) consists of eight questions requesting comments or questions about the Board of Behavioral Sciences' (Board) examination validation efforts (e.g., examination development, passing scores, and exam administration).

In addition, the information gathered is expected to facilitate achieving the overall goals and objectives of the Examination Program Review Committee. Appendix A presents a copy of the EPRCQ.

Information provided by individuals completing the EPRCQ is considered voluntary and anonymous; however, space for name, contact number, and profession or association was included. The EPRCQ was distributed at public meetings held statewide and at Licensed Clinical Social Worker, Licensed Educational Psychologist, and Marriage and Family Therapist examination development workshop meetings.

The Board also emailed a request for survey responses to its general email list which contains approximately 8,000 addresses. In addition, the California Association of Marriage and Family Therapists (CAMFT) sent an email to its membership soliciting responses to the survey. The CAMFT has approximately 30,000 members. It is important to note that the Board's general email list and the CAMFT membership email list overlap, and the extent of the overlap is unknown.

To date, fifty-five completed EPRCQs were received either in person at the meetings or via U.S. mail. Comments and questions were entered into a spreadsheet. The intent of the spreadsheet was to document receipt of the EPRCQ, the comments and/or questions, contact information (i.e., if provided), and the response or action taken. The goal was to address each comment and question either by explanation during a statewide meeting; or by direct communication from the Board; or, by narrative found in the final report to the Board.

Of the fifty-five questionnaires received, thirty-seven provided a name and contact information. Eighteen did not include contact information, maintaining anonymity. Table 1, presented below, illustrates the types of comments and questions received to date, followed by a brief summary of those comments and questions.

Table 1 – Examination Program Review Committee Questionnaire Results

Questionnaire Item	General or Neutral Comments	Negative Comments	Positive Comments	Comments or Questions for Board	Total Comments	Addressed or Responded
1. Professional Guidelines	6	13	4	5	28	16
2. Occupational Analysis	5	12	6	5	28	17
3. Exam Development	5	28	5	6	41	31
4. Passing Scores	2	16	4	9	31	27
5. Exam Administration	8	15	6	13	42	27
6. Candidate Information	5	10	7	7	29	19
7. Exam Evaluation	4	9	4	11	28	23
8. BBS Programs	6	14	0	20	40	34
Total	41	117	36	76	267	196

It should be noted that comments and questions were not scientifically coded. Rather, AMS used its judgment to determine where a comment or question should be entered in Table 1. Further, positive comments were not included in the “Addressed or Responded”. Therefore, most of the comments and questions were expected to be addressed either at the statewide meetings or in the final report to the Board.

In terms of the specific items, the first questionnaire item asked about **professional guidelines and technical standards used for examination validation**. Most of the negative comments in response to this item were about questionable examination content, confusing format of the clinical vignette items, and the lack of sufficient administration time. Comments for the Board included consideration of overlapping purposes of the LCSW and MFT licenses, difficulty for English-as-a-second-language candidates, and use of the national examination.

Questionnaire item number two addressed **occupational analysis**. Most of the negative comments centered on the content of the examination (e.g., who writes the questions, what reference materials are used), demonstrating a lack of knowledge about the process of examination development. Once again, reciprocity and use of the national examination types of questions were asked of the Board.

The third questionnaire item asked about **examination development and construction**. Again, respondents expressed concerns about the examination items, mostly the clinical vignette items. Respondents indicated that the instructions to select the “best” answer implied that multiple answers were possibly correct, thus adding an element of confusion. Many respondents stated that the examination appears “tricky” and not enough time is allowed to take the examinations. Respondents also commented on the need for an oral examination.

In response to questionnaire item number four, respondents wanted to know how the **passing scores** are established and why do they change. Respondents also wanted a process in place allowing candidates to challenge questions, especially when they fail by one or two points. Most of the negative comments were not about the passing scores, but rather how the pass rate is influenced by the “poorly worded” examination questions.

The fifth questionnaire item about **exam administration** included complaints about the administration time (i.e., too short), unprofessional PSI staff, inability to bring snacks into the test room, and lack of scratch paper. Other respondents questioned the six month “wait” period, while others suggested giving an examination immediately after graduation. Some candidates expressed positive comments about the computer-based testing format, while others recommended reinstating the oral format.

Questionnaire item number six asked respondents to comment on the **information available to candidates**. Respondents indicated that the information available was either sufficient and helpful or lacking. Many respondents complained that there should be more “transparency,” and the Board should release past examinations or provide practice examinations. Further, many respondents stated the need to take expensive prep courses in order to pass the examinations.

The seventh questionnaire item asked about **examination evaluation** to which many expressed an interest in how the Board evaluates its examinations, again requesting more transparency. Comments were also offered across many of the phases of examination development. Complaints included poor item format, tricky questions, and lack of an oral component.

Finally, many of the **general questions** posed to the Board in the eighth questionnaire item were mentioned in response to other items (e.g., examination cycles, pass rates, administration time, national examination, oral exam format, and examination content).

Although more negative comments were received than neutral or positive, common themes emerged across the feedback. Many of these themes are consistent with feedback received in the statewide meetings and subject matter expert workshops. The following list represents examples of those common themes.

- Reconsider an oral examination format
- Revise confusing questions
- Increase administration time
- Reduce retake period
- Provide practice test
- Address or evaluate low pass rates, especially with regard to the clinical vignette examinations

It is important to note that most of the comments or questions were addressed in the training provided at the Examination Committee Program Review meetings. Although requests for greater transparency were made, the Board discloses a significant amount of information about its licensing examination programs, consistent with professional guidelines and technical standards.

Further, comments not specifically addressed in the training or final reports primarily represented specific situations experienced by candidates such as not being able to reach the Board, continuing education credits, or not receiving Board documents in a timely manner.

Finally, the overall results of the Examination Program Review Committee work can be found in a report titled “*Board of Behavioral Sciences Holistic Examination Program Review Executive Summary Report*”.

Appendix A: Examination Program Review Committee Questionnaire

If you have comments or questions for the Board of Behavioral Sciences (BBS) Examination Program Review Committee (EPRC), please complete the appropriate sections of this questionnaire. The EPRC will make every reasonable effort to address comments and questions during future meetings as they pertain to the agenda items, goals, and objectives of the EPRC.

The questionnaire can be completed and submitted at any of the five EPRC meetings or mailed to Applied Measurement Services, LLC 1539 Dickinson Drive, Roseville, CA 95747.

The information that you provide here is voluntary and anonymous*. It will be used to facilitate achieving the goals and objectives of the EPRC.

1. Do you have comments or questions about professional guidelines or technical standards regarding licensing examination validation?

2. Do you have comments or questions about occupational analysis as it pertains to the BBS licensing examinations?

3. Do you have comments or questions about the development and/or construction of the BBS licensing examinations?

4. Do you have comments or questions about passing scores established for the BBS licensing examinations?

5. Do you have comments or questions about the administration of the BBS licensing examinations?

6. Do you have comments or questions about the information available to candidates about the BBS licensing examinations?

7. Do you have comments or questions about how the BBS licensing examinations are evaluated?

8. Do you have general comments or questions about the BBS licensing examination programs?

*The following information is not required, but may be helpful if clarification of comment(s) or question(s) is needed.

Name: _____

Contact Number: _____

Profession or Association: _____

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To: Licensing and Examination Committee

Date: March 10, 2011

From: Christina Kitamura
Administrative Analyst

Telephone: (916) 574-7835

Subject: **Discussion and Possible Action Regarding the National Counselor Examination and the National Clinical Mental Health Counselor Examination**

Materials for this agenda item will be provided in a supplemental package and will be posted on the website at that time.

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